

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation/Petition to
Revoke Probation Against:

Case No. 2006-56

DAWN JANETTE FISHER
1703 R Street
Eureka, California 95501
Registered Nurse License No. 417439

Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on 3-29-10.

It is so ORDERED 2-26-10.



FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

1 EDMUND G. BROWN JR.
Attorney General of California
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8 LYDIA ZANE
Senior Legal Analyst

10 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation/Petition to
13 Revoke Probation Against:

Case No. 2006-56

14 **DAWN JANETTE FISHER**
1703 R Street
15 Eureka, California 95501
16 Registered Nurse License No. 417439

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

Respondent.

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Interim Executive Officer of the
22 Board of Registered Nursing. She brought this action solely in her official capacity and is
23 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,
24 by Hannah H. Rose, Deputy Attorney General.

25 2. Respondent Dawn Janette Fisher (Respondent) is representing herself in this
26 proceeding and has chosen not to exercise her right to be represented by counsel.

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1 3. On or about August 31, 1987, the Board of Registered Nursing issued Registered
2 Nurse License No. 417439 to Dawn Janette Fisher (Respondent). The Registered Nurse License
3 was in full force and effect at all times relevant to the charges brought in Accusation/Petition to
4 Revoke Probation No. 2006-56 and will expire on November 30, 2010, unless renewed.

5 JURISDICTION

6 4. Accusation/Petition to Revoke Probation No. 2006-56 was filed before the Board of
7 Registered Nursing (Board) , Department of Consumer Affairs, and is currently pending against
8 Respondent. The Accusation/Petition to Revoke Probation and all other statutorily required
9 documents were properly served on Respondent on August 12, 2009. Respondent timely filed her
10 Notice of Defense contesting the Accusation/Petition to Revoke Probation. A copy of
11 Accusation/Petition to Revoke Probation No. 2006-56 is attached as "Exhibit A" and incorporated
12 herein by reference.

13 ADVISEMENT AND WAIVERS

14 5. Respondent has carefully read, and understands the charges and allegations in
15 Accusation/Petition to Revoke Probation No. 2006-56. Respondent has also carefully read, and
16 understands the effects of this Stipulated Settlement and Disciplinary Order.

17 6. Respondent is fully aware of her legal rights in this matter, including the right to a
18 hearing on the charges and allegations in the Accusation/Petition to Revoke Probation; the right
19 to be represented by counsel at her own expense; the right to confront and cross-examine the
20 witnesses against her; the right to present evidence and to testify on her own behalf; the right to
21 the issuance of subpoenas to compel the attendance of witnesses and the production of
22 documents; the right to reconsideration and court review of an adverse decision; and all other
23 rights accorded by the California Administrative Procedure Act and other applicable laws.

24 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
25 every right set forth above.

26 CULPABILITY

27 8. Respondent admits the truth of each and every charge and allegation in
28 Accusation/Petition to Revoke Probation No. 2006-56.

9. Respondent agrees that her Registered Nurse License is subject to discipline and she agrees to be bound by the Board of Registered Nursing (Board)'s imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

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Severability Clause. Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

Criminal Court Orders: If Respondent is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

Upon successful completion of probation, Respondent's license shall be fully restored.

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1 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency
2 or practice as a registered nurse outside of California shall not apply toward a reduction of this
3 probation time period. Respondent's probation is tolled, if and when she resides outside of
4 California. Respondent must provide written notice to the Board within 15 days of any change of
5 residency or practice outside the state, and within 30 days prior to re-establishing residency or
6 returning to practice in this state.

7 Respondent shall provide a list of all states and territories where she has ever been licensed
8 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
9 information regarding the status of each license and any changes in such license status during the
10 term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing
11 license during the term of probation.

12 5. **Submit Written Reports.** Respondent, during the period of probation,
13 shall submit or cause to be submitted such written reports/declarations and verification of actions
14 under penalty of perjury, as required by the Board. These reports/declarations shall contain
15 statements relative to Respondent's compliance with all the conditions of the Board's Probation
16 Program. Respondent shall immediately execute all release of information forms as may be
17 required by the Board or its representatives.

18 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
19 state and territory in which she has a registered nurse license.

20 6. **Function as a Registered Nurse.** Respondent, during the period of
21 probation, shall engage in the practice of registered nursing in California for a minimum of 24
22 hours per week for 6 consecutive months or as determined by the Board.

23 For purposes of compliance with the section, "engage in the practice of registered nursing"
24 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
25 non-direct patient care position that requires licensure as a registered nurse.

26 The Board may require that advanced practice nurses engage in advanced practice nursing
27 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

28 If Respondent has not complied with this condition during the probationary term, and

1 Respondent has presented sufficient documentation of her good faith efforts to comply with this
2 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
3 extension of Respondent's probation period up to one year without further hearing in order to
4 comply with this condition. During the one year extension, all original conditions of probation
5 shall apply.

6 7. **Employment Approval and Reporting Requirements.** Respondent shall
7 obtain prior approval from the Board before commencing or continuing any employment, paid or
8 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
9 performance evaluations and other employment related reports as a registered nurse upon request
10 of the Board.

11 Respondent shall provide a copy of this Decision to her employer and immediate
12 supervisors prior to commencement of any nursing or other health care related employment.

13 In addition to the above, Respondent shall notify the Board in writing within seventy-two
14 (72) hours after she obtains any nursing or other health care related employment. Respondent
15 shall notify the Board in writing within seventy-two (72) hours after she is terminated or
16 separated, regardless of cause, from any nursing, or other health care related employment with a
17 full explanation of the circumstances surrounding the termination or separation.

18 8. **Supervision.** Respondent shall obtain prior approval from the Board
19 regarding Respondent's level of supervision and/or collaboration before commencing or
20 continuing any employment as a registered nurse, or education and training that includes patient
21 care.

22 Respondent shall practice only under the direct supervision of a registered nurse in good
23 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
24 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
25 approved.

26 Respondent's level of supervision and/or collaboration may include, but is not limited to the
27 following:

- 28 (a) Maximum - The individual providing supervision and/or collaboration is present in

1 the patient care area or in any other work setting at all times.

2 (b) Moderate - The individual providing supervision and/or collaboration is in the patient
3 care unit or in any other work setting at least half the hours Respondent works.

4 (c) Minimum - The individual providing supervision and/or collaboration has person-to-
5 person communication with Respondent at least twice during each shift worked.

6 (d) Home Health Care - If Respondent is approved to work in the home health care
7 setting, the individual providing supervision and/or collaboration shall have person-to-person
8 communication with Respondent as required by the Board each work day. Respondent shall
9 maintain telephone or other telecommunication contact with the individual providing supervision
10 and/or collaboration as required by the Board during each work day. The individual providing
11 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to
12 patients' homes visited by Respondent with or without Respondent present.

13 9. **Employment Limitations.** Respondent shall not work for a nurse's
14 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
15 traveling nurse, or for an in-house nursing pool.

16 Respondent shall not work for a licensed home health agency as a visiting nurse unless the
17 registered nursing supervision and other protections for home visits have been approved by the
18 Board. Respondent shall not work in any other registered nursing occupation where home visits
19 are required.

20 Respondent shall not work in any health care setting as a supervisor of registered nurses.
21 The Board may additionally restrict Respondent from supervising licensed vocational nurses
22 and/or unlicensed assistive personnel on a case-by-case basis.

23 Respondent shall not work as a faculty member in an approved school of nursing or as an
24 instructor in a Board approved continuing education program.

25 Respondent shall work only on a regularly assigned, identified and predetermined
26 worksite(s) and shall not work in a float capacity.

27 If Respondent is working or intends to work in excess of 40 hours per week, the Board may
28 request documentation to determine whether there should be restrictions on the hours of work.

1 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall
2 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
3 than six months prior to the end of her probationary term.

4 Respondent shall obtain prior approval from the Board before enrolling in the course(s).
5 Respondent shall submit to the Board the original transcripts or certificates of completion for the
6 above required course(s). The Board shall return the original documents to Respondent after
7 photocopying them for its records.

8 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with
9 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
10 amount of \$850.00. Respondent shall be permitted to pay these costs in a payment plan approved
11 by the Board, with payments to be completed no later than three months prior to the end of the
12 extended probation term.

13 If Respondent has not complied with this condition during the probationary term, and
14 Respondent has presented sufficient documentation of her good faith efforts to comply with this
15 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
16 extension of Respondent's probation period up to one year without further hearing in order to
17 comply with this condition. During the one year extension, all original conditions of probation
18 will apply.

19 12. **Violation of Probation.** If Respondent violates the conditions of her
20 probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside
21 the stay order and impose the stayed discipline (revocation/suspension) of Respondent's license.

22 If during the period of probation, an accusation or petition to revoke probation has been
23 filed against Respondent's license or the Attorney General's Office has been requested to prepare
24 an accusation or petition to revoke probation against Respondent's license, the probationary
25 period shall automatically be extended and shall not expire until the accusation or petition has
26 been acted upon by the Board.

27 13. **License Surrender.** During Respondent's term of probation, if she ceases
28 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of

1 probation, Respondent may surrender her license to the Board. The Board reserves the right to
2 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
3 take any other action deemed appropriate and reasonable under the circumstances, without further
4 hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no
5 longer be subject to the conditions of probation.

6 Surrender of Respondent's license shall be considered a disciplinary action and shall
7 become a part of Respondent's license history with the Board. A registered nurse whose license
8 has been surrendered may petition the Board for reinstatement no sooner than the following
9 minimum periods from the effective date of the disciplinary decision:

10 (1) Two years for reinstatement of a license that was surrendered for any reason other
11 than a mental or physical illness; or

12 (2) One year for a license surrendered for a mental or physical illness.

13 14. **Physical Examination.** Within 45 days of the effective date of this
14 Decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or
15 physician assistant, who is approved by the Board before the assessment is performed, submit an
16 assessment of the Respondent's physical condition and capability to perform the duties of a
17 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
18 medically determined, a recommended treatment program will be instituted and followed by the
19 Respondent with the physician, nurse practitioner, or physician assistant providing written reports
20 to the Board on forms provided by the Board.

21 If Respondent is determined to be unable to practice safely as a registered nurse, the
22 licensed physician, nurse practitioner, or physician assistant making this determination shall
23 immediately notify the Board and Respondent by telephone, and the Board shall request that the
24 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall
25 immediately cease practice and shall not resume practice until notified by the Board. During this
26 period of suspension, Respondent shall not engage in any practice for which a license issued by
27 the Board is required until the Board has notified Respondent that a medical determination
28 permits Respondent to resume practice. This period of suspension will not apply to the reduction

1 of this probationary time period.

2 If Respondent fails to have the above assessment submitted to the Board within the 45-day
3 requirement, Respondent shall immediately cease practice and shall not resume practice until
4 notified by the Board. This period of suspension will not apply to the reduction of this
5 probationary time period. The Board may waive or postpone this suspension only if significant,
6 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
7 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
8 Only one such waiver or extension may be permitted.

9 **15. Participate in Treatment/Rehabilitation Program for Chemical**
10 **Dependence.** Respondent, at her expense, shall successfully complete during the probationary
11 period or shall have successfully completed prior to commencement of probation a Board-
12 approved treatment/rehabilitation program of at least six months duration. As required, reports
13 shall be submitted by the program on forms provided by the Board. If Respondent has not
14 completed a Board-approved treatment/rehabilitation program prior to commencement of
15 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in
16 a program. If a program is not successfully completed within the first nine months of probation,
17 the Board shall consider Respondent in violation of probation.

18 Based on Board recommendation, each week Respondent shall be required to attend at least
19 one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous,
20 Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board.
21 If a nurse support group is not available, an additional 12-step meeting or equivalent shall be
22 added. Respondent shall submit dated and signed documentation confirming such attendance to
23 the Board during the entire period of probation. Respondent shall continue with the recovery plan
24 recommended by the treatment/rehabilitation program or a licensed mental health examiner
25 and/or other ongoing recovery groups.

26 **16. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
27 shall completely abstain from the possession, injection or consumption by any route of all
28 controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when

1 the same are ordered by a health care professional legally authorized to do so as part of
2 documented medical treatment. Respondent shall have sent to the Board, in writing and within
3 fourteen (14) days, by the prescribing health professional, a report identifying the medication,
4 dosage, the date the medication was prescribed, the Respondent's prognosis, the date the
5 medication will no longer be required, and the effect on the recovery plan, if appropriate.

6 Respondent shall identify for the Board a single physician, nurse practitioner or physician
7 assistant who shall be aware of Respondent's history of substance abuse and will coordinate and
8 monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-
9 altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report
10 to the Board on a quarterly basis Respondent's compliance with this condition. If any substances
11 considered addictive have been prescribed, the report shall identify a program for the time limited
12 use of any such substances.

13 The Board may require the single coordinating physician, nurse practitioner, or physician
14 assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive
15 medicine.

16 17. **Submit to Tests and Samples.** Respondent, at her expense, shall
17 participate in a random, biological fluid testing or a drug screening program which the Board
18 approves. The length of time and frequency will be subject to approval by the Board.
19 Respondent is responsible for keeping the Board informed of Respondent's current telephone
20 number at all times. Respondent shall also ensure that messages may be left at the telephone
21 number when she is not available and ensure that reports are submitted directly by the testing
22 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
23 to the Board by the program and Respondent shall be considered in violation of probation.

24 In addition, Respondent, at any time during the period of probation, shall fully cooperate
25 with the Board or any of its representatives, and shall, when requested, submit to such tests and
26 samples as the Board or its representatives may require for the detection of alcohol, narcotics,
27 hypnotics, dangerous drugs, or other controlled substances.

28 If Respondent has a positive drug screen for any substance not legally authorized and not

1 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board
2 files a petition to revoke probation or an accusation, the Board may suspend Respondent from
3 practice pending the final decision on the petition to revoke probation or the accusation. This
4 period of suspension will not apply to the reduction of this probationary time period.

5 If Respondent fails to participate in a random, biological fluid testing or drug screening
6 program within the specified time frame, Respondent shall immediately cease practice and shall
7 not resume practice until notified by the Board. After taking into account documented evidence
8 of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may
9 suspend Respondent from practice pending the final decision on the petition to revoke probation
10 or the accusation. This period of suspension will not apply to the reduction of this probationary
11 time period.

12 18. **Mental Health Examination.** Respondent shall, within 45 days of the
13 effective date of this Decision, have a mental health examination including psychological testing
14 as appropriate to determine her capability to perform the duties of a registered nurse. The
15 examination will be performed by a psychiatrist, psychologist or other licensed mental health
16 practitioner approved by the Board. The examining mental health practitioner will submit a
17 written report of that assessment and recommendations to the Board. All costs are the
18 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
19 result of the mental health examination will be instituted and followed by Respondent.

20 If Respondent is determined to be unable to practice safely as a registered nurse, the
21 licensed mental health care practitioner making this determination shall immediately notify the
22 Board and Respondent by telephone, and the Board shall request that the Attorney General's
23 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
24 practice and may not resume practice until notified by the Board. During this period of
25 suspension, Respondent shall not engage in any practice for which a license issued by the Board
26 is required, until the Board has notified Respondent that a mental health determination permits
27 Respondent to resume practice. This period of suspension will not apply to the reduction of this
28 probationary time period.

1 If Respondent fails to have the above assessment submitted to the Board within the 45-day
2 requirement, Respondent shall immediately cease practice and shall not resume practice until
3 notified by the Board. This period of suspension will not apply to the reduction of this
4 probationary time period. The Board may waive or postpone this suspension only if significant,
5 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
6 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
7 Only one such waiver or extension may be permitted.

8 19. **Therapy or Counseling Program.** Respondent, at her expense, shall
9 participate in an on-going counseling program until such time as the Board releases her from this
10 requirement and only upon the recommendation of the counselor. Written progress reports from
11 the counselor will be required at various intervals.

12 20. The four additional years of probation shall commence on the effective
13 date of this Decision or on February 22, 2010, whichever is comes later.

14 ACCEPTANCE

15 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
16 stipulation and the effect it will have on my Registered Nurse License. I enter into this
17 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
18 to be bound by the Decision and Order of the Board of Registered Nursing.

19
20 DATED: 2/10/10

Dawn Janette Fisher
DAWN JANETTE FISHER
Respondent

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Dated: February 16, 2010

EDMUND G. BROWN JR.,
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General

Nannah A. Rose

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Exhibit A

Accusation/Petition to Revoke Probation No. 2006-56

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Attorneys for Complainant

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8 LYDIA ZANE
Senior Legal Analyst

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10 **BEFORE THE**
BOARD OF REGISTERED NURSING
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12
13 In the Matter of the Accusation/Petition to
Revoke Probation Against:

Case No. 2006-56

14
15 **DAWN J. FISHER,**
aka DAWN J. DELLAS
aka DAWN J. DELLAS FISHER
16 **1703 R Street**
Eureka, California 95501
17 **Registered Nurse License No. 417439**

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

18 Respondent.

19
20 Complainant alleges:

21 **PARTIES**

22 1. Louise R. Bailey, M.Ed., RN, Interim Executive Officer (Complainant) brings this
23 Accusation and Petition to Revoke Probation solely in her official capacity as the Assistant
24 Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs.

25 2. On or about August 31, 1987, the Board of Registered Nursing issued Registered
26 Nurse License No. 417439 to Dawn J. Dellas, aka Dawn J. Dellas Fisher, aka Dawn J. Fisher,
27 (Respondent). The Registered Nurse License was in full force and effect at all times relevant to
28 the charges brought herein and will expire on November 30, 2010, unless renewed.

3. In a disciplinary action entitled "In the Matter of the Accusation Against Dawn J. Fisher," Case No. 2006-56, the Board of Registered Nursing issued a decision, effective February 22, 2007, in which Respondent's license was revoked, revocation stayed and the licensee was placed on probation for a period of three (3) years with certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.

JURISDICTION

4. This Accusation and Petition to Revoke Probation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

5. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6. Section 2761 of the Code states, in pertinent part, that the Board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence, in carrying out usual certified or licensed nursing functions.

...

(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or regulations adopted pursuant to it.

7. Section 2762 of the Code states, in relevant part, that In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

1 (a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
2 physician and surgeon, dentist, or podiatrist, administer to himself or herself, or furnish or
3 administer to another, any controlled substance as defined in Division 10 (commencing with
4 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
5 defined in Section 4022.

6 (b) Use any controlled substance as defined in Division 10 (commencing with Section
7 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
8 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
9 himself or herself, any other person, or the public or to the extent that such use impairs his or her
10 ability to conduct with safety to the public the practice authorized by his or her license.

11 ...

12 (e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any
13 hospital, patient, or other record pertaining to the substances described in subdivision (a) of this
14 section.

15 8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
16 administrative law judge to direct a licensee found to have committed a violation or violations of
17 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
18 enforcement of the case.

19 REGULATION PROVISIONS

20 9. California Code of Regulations, Title 16, ("CCR"), section 1442 sets forth the
21 definition of "gross negligence" as follows:

22 As used in section 2761 of the code, "gross negligence" includes an extreme departure from
23 the standard of care which, under similar circumstances, would have ordinarily been exercised by
24 a competent registered nurse. Such an extreme departure means the repeated failure to provide
25 nursing care as required or failure to provide care or to exercise ordinary precaution in a single
26 situation which the nurse knew, or should have known, could have jeopardized the client's health
27 or life.

1 10. CCR section 1443 provides that, as used in section 2761 of the Code, "incompetence"
2 means the lack of possession of or the failure to exercise that degree of learning, skill, care and
3 experience ordinarily possessed and exercised by a competent registered nurse as described in
4 section 1443.5.

5 11. CCR section 1443.5, states in pertinent part, that a registered nurse shall be
6 considered to be competent when he or she consistently demonstrates the ability to transfer
7 scientific knowledge from social, biological and physical sciences in applying the nursing
8 process.

9 DRUGS

10 **Meperidine Hydrochloride** is a strong synthetic opioid analgesic used in the relief of
11 moderate to severe pain, as a pre-operative supplement to anesthesia and to provide pain relief
12 during labor. Also known by the brand name **Demerol**, meperidine hydrochloride preparations
13 are subject to control as Schedule II controlled substances as designated by Health and Safety
14 Code section 11055, subdivision (c)(17), and dangerous drugs within the meaning of Code
15 section 4022.

16 FACTUAL BACKGROUND

17 12. Effective February 22, 2007, a Decision and Order of the Board of Registered
18 Nursing, Department of Consumer Affairs, adopting a Stipulated Settlement and Disciplinary
19 Order, placed Respondent on probation for a period of three (3) years subject to certain terms and
20 conditions. Among those terms and conditions is the requirement that Respondent obey all laws
21 (Condition No. 1). Respondent must report any violation of this condition is to the Board in
22 writing within seventy-two (72) hours of its occurrence.

23 a. On or about July 20, 2008, staff at St. Joseph Hospital (Hospital) in Eureka,
24 California, reported finding an uncapped, bloody, needle on the floor directly under Respondent's
25 locker in the Progressive Care Unit where respondent worked as a clinical supervisor on the
26 preceding 5:00 p.m. to 5:30 a.m. shift. On or about July 21, 2008, a hospital monitor technician
27 reported finding a plastic bag, containing uncapped needles and the plastic end of a Patient
28

1 Controller Analgesia (PCA) syringe after respondent completed her shift as a Monitor Technician
2 at 6:00 a.m. on July 21, 2008.

3 b. A review of the medication dispensing records (Pyxis) by Hospital supervisory staff
4 showed that on July 19, 2008, at 5:07 a.m., respondent withdrew a 300 mg Meperidine PCA
5 syringe for patient D.P.¹ There was no further documentation to show that respondent
6 administered the PCA to the patient. The Pyxis records indicated that on or about July 7, 2008, at
7 6:14 a.m., respondent withdrew a 50 mg syringe of Meperidine for patient M.J. There is no
8 documentation to show that respondent administered this medication to the patient. On or about
9 July 30, 2008, admitted her drug activity to the Hospital Critical Care Director. On or about July
10 31, 2008, Respondent was terminated from her employment with the Hospital because of her drug
11 activity at the Hospital.

12 c. On or about August 7, 2008, respondent wrote to the Board informing them that she
13 had been terminated from her employment at St. Joseph Hospital in Eureka, California, for taking
14 narcotics from the Hospital.

15 FIRST CAUSE FOR DISCIPLINE

16 (Unprofessional Conduct - Gross Negligence/Incompetence)

17 13. Respondent is subject to disciplinary action under section 2761(a)(1) and 2761(d),
18 unprofessional conduct, gross negligence, as defined in CCR section 1442, and/or incompetence
19 as defined in CCR section 1443, for the violation of section 2762(a) in that Respondent obtained a
20 controlled substance and dangerous drug, i.e., Meperidine, by diverting it for her personal use as
21 set forth in paragraph 12 above.

22 SECOND CAUSE FOR DISCIPLINE

23 (Unprofessional Conduct - Gross Negligence/Incompetence)

24 14. Respondent is subject to disciplinary action under section 2761(a)(1) and 2761(d),
25 unprofessional conduct, incompetence as defined in section 1443 and 1443.5, for the violation of
26

27 ¹ Initials are used to protect privacy. Full names may be disclosed on request in
28 discovery.

1 section 2762(b) in that Respondent unlawfully obtained a controlled substance and dangerous
2 drug, i.e., Meperidine, for her personal use as set forth in paragraph 12 above.

3 THIRD CAUSE FOR DISCIPLINE

4 (Unprofessional Conduct)

5 15. Respondent is subject to disciplinary action under section 2761(a)(1) and 2761(d),
6 unprofessional conduct, for the violation of section 2762(e) in that Respondent made false and/or
7 grossly incorrect, grossly inconsistent, entries in the records of Hospital patients M.J. and D.P.,
8 for the purpose of obtaining a controlled substance and dangerous drug, i.e., Meperidine, for her
9 personal use as set forth in paragraph 12 above.

10 PETITION TO REVOKE PROBATION

11 16. The allegations of paragraphs 1 through 14 of the Accusation are incorporated herein
12 by reference and are realleged as if fully set forth.

13 17. On or about February 22, 2007, respondent's Registered Nursing License was
14 revoked, revocation stayed and placed on three (3) years probation subject to the relevant terms
15 and conditions of probation.

16 RELEVANT TERMS OF PROBATION

17 18. Pursuant to the Decision of the Board to stay the revocation of Respondent's Nursing
18 License and to place her on three (3) years probation the following relevant conditions of
19 probation were imposed:

20 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and
21 detailed account of any and all violations of law shall be reported by Respondent to the Board in
22 writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with
23 this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within
24 45 days of the effective date of the decision, unless previously submitted as part of the licensure
25 application process.

26 CAUSE TO REVOKE PROBATION

27 19. Grounds exist to revoke Respondent's probation heretofore entered and impose the
28 stayed order of revocation in that Respondent failed to comply with the terms and conditions of

1 probation as follows:

2 20. Respondent failed to comply with Condition No. 1 of her probation that required her
3 to obey all federal, state and local laws, in that on or about July 31, 2008, Respondent was
4 terminated from her employment at St. Joseph Hospital in Eureka, California, on her admission
5 that she diverted a controlled substance and dangerous drug, to wit; Meperidine, for her own use
6 while on duty as a Clinical Supervisor at the Hospital. Further, Respondent failed to file a full
7 and detailed account of the probation violation as well as notify in the Board in writing within
8 seventy-two (72) hours of occurrence in that Respondent did not notify the Board in writing about
9 the circumstances leading to her termination at the Hospital until August 7, 2008.

10 PRAYER

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12 and that following the hearing, the Board of Registered Nursing issue a decision:

13 1. Revoking the probation that was granted by the Board of Registered Nursing in Case
14 No. 2006-56 and imposing the disciplinary order that was stayed thereby revoking Registered
15 Nurse License No. 417439 issued to Dawn J. Dellas, aka Dawn J. Dellas Fisher, aka Dawn J.
16 Fisher.

17 2. Revoking Registered Nurse License No. 417439, issued to Dawn J. Dellas, aka Dawn
18 J. Dellas Fisher, aka Dawn J. Fisher.

19 3. Ordering Dawn J. Fisher to pay the Board of Registered Nursing the reasonable costs
20 of the investigation and enforcement of this case, pursuant to Business and Professions Code
21 section 125.3;

22 4. Taking such other and further action as deemed necessary and proper.

23 DATED: 7/31/09

24 *Louise R. Bailey*
25 Louise R. Bailey, M.Ed., RN
26 Interim Executive Officer
27 Board of Registered Nursing
28 Department of Consumer Affairs
State of California
Complainant

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BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 2006-56

Dawn J. Fisher
1703 R Street
Eureka, CA 95501

Registered Nurse License No. 417439

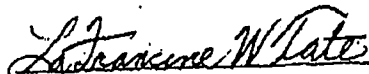
Respondent

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as it's Decision in the above entitled matter.

This Decision shall become effective on February 22, 2007.

IT IS SO ORDERED January 22, 2007.



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 BILL LOCKYER, Attorney General
of the State of California
2 HANNAH HIRSCH ROSE, State Bar No. 56276
Deputy Attorney General
3 California Department of Justice
455 Golden Gate Avenue, Suite 11000
4 San Francisco, CA 94102-7004
Telephone: (415) 703-5515
5 Facsimile: (415) 703-5480

6 Attorneys for Complainant

7
8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2006-56

13 DAWN J. FISHER
1703 R Street
14 Eureka, CA 95501

OAH No. 2006070053

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Registered Nurse License No. 417439

16 Respondent.

17
18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
20 above-entitled proceedings that the following matters are true:

21
22 PARTIES

23 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of
24 the Board of Registered Nursing. She brought this action solely in her official capacity and is
25 represented in this matter by Bill Lockyer, Attorney General of the State of California, by
26 Hannah Hirsch Rose, Deputy Attorney General.

27 2. Respondent Dawn J. Fisher (Respondent) is represented in this proceeding
28 by attorney Donald B. Brown, Law Offices of Brown & Brown, whose address is 3848 Carson

1 Street, Suite 206, Torrance, CA 90503.

2 3. On or about August 31, 1987, the Board of Registered Nursing issued
3 Registered Nurse License No. 417439 to Dawn J. Fisher (Respondent). The License was in full
4 force and effect at all times relevant to the charges brought in Accusation No. 2006-56 and will
5 expire on November 30, 2006, unless renewed.

6 JURISDICTION

7 4. Accusation No. 2006-56 was filed before the Board of Registered Nursing
8 (Board), Department of Consumer Affairs, and is currently pending against Respondent. The
9 Accusation and all other statutorily required documents were properly served on Respondent on
10 November 2, 2005. Respondent timely filed her Notice of Defense contesting the Accusation. A
11 copy of Accusation No. 2006-56 is attached as exhibit A and incorporated herein by reference.

12 ADVISEMENT AND WAIVERS

13 5. Respondent has carefully read, fully discussed with counsel, and
14 understands the charges and allegations in Accusation No. 2006-56. Respondent has also
15 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
16 Settlement and Disciplinary Order.

17 6. Respondent is fully aware of her legal rights in this matter, including the
18 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
19 counsel at her own expense; the right to confront and cross-examine the witnesses against her;
20 the right to present evidence and to testify on her own behalf; the right to the issuance of
21 subpoenas to compel the attendance of witnesses and the production of documents; the right to
22 reconsideration and court review of an adverse decision; and all other rights accorded by the
23 California Administrative Procedure Act and other applicable laws.

24 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
25 each and every right set forth above.

26 CULPABILITY

27 8. Respondent admits the truth of each and every charge and allegation in
28 Accusation No. 2006-56.

1 9. Respondent agrees that her Registered Nurse License is subject to
2 discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the
3 Disciplinary Order below.

4 RESERVATION

5 10. The admissions made by Respondent herein are only for the purposes of
6 this proceeding, or any other proceedings in which the Board of Registered Nursing or other
7 professional licensing agency is involved, and shall not be admissible in any other criminal or
8 civil proceeding.

9 CONTINGENCY

10 11. This stipulation shall be subject to approval by the Board of Registered
11 Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the
12 Board of Registered Nursing may communicate directly with the Board regarding this stipulation
13 and settlement, without notice to or participation by Respondent or her counsel. By signing the
14 stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek
15 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
16 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
17 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
18 action between the parties, and the Board shall not be disqualified from further action by having
19 considered this matter.

20 12. The parties understand and agree that facsimile copies of this Stipulated
21 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
22 force and effect as the originals.

23 13. In consideration of the foregoing admissions and stipulations, the parties
24 agree that the Board may, without further notice or formal proceeding, issue and enter the
25 following Disciplinary Order:

26 //

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1 representatives.

2 4. **Residency, Practice, or Licensure Outside of State.** Periods of
3 residency or practice as a registered nurse outside of California shall not apply toward a reduction
4 of this probation time period. Respondent's probation is tolled, if and when she resides outside
5 of California. Respondent must provide written notice to the Board within 15 days of any change
6 of residency or practice outside the state, and within 30 days prior to re-establishing residency or
7 returning to practice in this state.

8 Respondent shall provide a list of all states and territories where she has ever been
9 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further
10 provide information regarding the status of each license and any changes in such license status
11 during the term of probation. Respondent shall inform the Board if she applies for or obtains a
12 new nursing license during the term of probation.

13 5. **Submit Written Reports.** Respondent, during the period of probation,
14 shall submit or cause to be submitted such written reports/declarations and verification of actions
15 under penalty of perjury, as required by the Board. These reports/declarations shall contain
16 statements relative to Respondent's compliance with all the conditions of the Board's Probation
17 Program. Respondent shall immediately execute all release of information forms as may be
18 required by the Board or its representatives.

19 Respondent shall provide a copy of this Decision to the nursing regulatory agency
20 in every state and territory in which she has a registered nurse license.

21 6. **Function as a Registered Nurse.** Respondent, during the period of
22 probation, shall engage in the practice of registered nursing in California for a minimum of 24
23 hours per week for 6 consecutive months or as determined by the Board.

24 For purposes of compliance with the section, "engage in the practice of registered
25 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
26 work in any non-direct patient care position that requires licensure as a registered nurse.

27 The Board may require that advanced practice nurses engage in advanced practice
28 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the

1 Board.

2 If Respondent has not complied with this condition during the probationary term,
3 and Respondent has presented sufficient documentation of her good faith efforts to comply with
4 this condition, and if no other conditions have been violated, the Board, in its discretion, may
5 grant an extension of Respondent's probation period up to one year without further hearing in
6 order to comply with this condition. During the one year extension, all original conditions of
7 probation shall apply.

8 **7. Employment Approval and Reporting Requirements.** If respondent
9 works anywhere other than where she is presently working at St. Joseph Hospital in Eureka,
10 California as a Clinical Supervisor, Nursing Services, she shall obtain prior approval from the
11 Board before commencing or continuing any employment, paid or voluntary, as a registered
12 nurse. Respondent shall cause to be submitted to the Board all performance evaluations and
13 other employment related reports as a registered nurse upon request of the Board.

14 Respondent shall provide a copy of this Decision to her employer and immediate
15 supervisors prior to commencement of any nursing or other health care related employment.

16 In addition to the above, Respondent shall notify the Board in writing within
17 seventy-two (72) hours after she obtains any nursing or other health care related employment.
18 Respondent shall notify the Board in writing within seventy-two (72) hours after she is
19 terminated or separated, regardless of cause, from any nursing, or other health care related
20 employment with a full explanation of the circumstances surrounding the termination or
21 separation.

22 **8. Supervision.** Respondent shall obtain prior approval from the Board
23 regarding Respondent's level of supervision and/or collaboration before commencing or
24 continuing any employment as a registered nurse, or education and training that includes patient
25 care.

26 If respondent works anywhere other than St. Joseph Hospital in Eureka,
27 California, she shall practice only under the direct supervision of a registered nurse in good
28 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods

1 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
2 approved. Pursuant to this stipulation, respondent may continue in her present job as a clinical
3 supervisor, nursing services at St. Joseph Hospital, Eureka, California. It is understood that in
4 that job respondent is supervised either by a Unit Supervisor or the Director of Nursing, who are
5 registered nurses and one of whom is on duty at all times or directly available by telephone.
6 Respondent may also be supervised by a clinical administrator of the hospital if that person is a
7 licensed health care professional and is on duty at all times that respondent is working. Any
8 other supervision or change in supervision must be approved by the Board prior to the
9 commencement or continuation of work.

10 Respondent's level of supervision and/or collaboration may include, but is not
11 limited to the following:

12 (a) Maximum - The individual providing supervision and/or collaboration is
13 present in the patient care area or in any other work setting at all times.

14 (b) Moderate - The individual providing supervision and/or collaboration is in
15 the patient care unit or in any other work setting at least half the hours Respondent works.

16 (c) Minimum - The individual providing supervision and/or collaboration has
17 person-to-person communication with Respondent at least twice during each shift worked.

18 (d) Home Health Care - If Respondent is approved to work in the home health
19 care setting, the individual providing supervision and/or collaboration shall have person-to-
20 person communication with Respondent as required by the Board each work day. Respondent
21 shall maintain telephone or other telecommunication contact with the individual providing
22 supervision and/or collaboration as required by the Board during each work day. The individual
23 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
24 site visits to patients' homes visited by Respondent with or without Respondent present.

25 9. **Employment Limitations.** Respondent shall not work for a nurse's
26 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
27 traveling nurse, or for an in-house nursing pool.

28 Respondent shall not work for a licensed home health agency as a visiting nurse

1 unless the registered nursing supervision and other protections for home visits have been
2 approved by the Board. Respondent shall not work in any other registered nursing occupation
3 where home visits are required.

4 Respondent shall not work in any health care setting as a supervisor of registered
5 nurses except as described above in paragraphs 7 and 8. The Board may additionally restrict
6 Respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on
7 a case-by-case basis.

8 Respondent shall not work as a faculty member in an approved school of nursing
9 or as an instructor in a Board approved continuing education program.

10 Respondent shall work only on a regularly assigned, identified and predetermined
11 worksite(s) and shall not work in a float capacity.

12 If Respondent is working or intends to work in excess of 40 hours per week, the
13 Board may request documentation to determine whether there should be restrictions on the hours
14 of work.

15 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall
16 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
17 than six months prior to the end of her probationary term.

18 Respondent shall obtain prior approval from the Board before enrolling in the
19 course(s). Respondent shall submit to the Board the original transcripts or certificates of
20 completion for the above required course(s). The Board shall return the original documents to
21 Respondent after photocopying them for its records.

22 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with
23 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
24 amount of \$4,297.00. Respondent shall be permitted to pay these costs in a payment plan
25 approved by the Board, with payments to be completed no later than three months prior to the
26 end of the probation term.

27 If Respondent has not complied with this condition during the probationary term,
28 and Respondent has presented sufficient documentation of her good faith efforts to comply with

1 this condition, and if no other conditions have been violated, the Board, in its discretion, may
2 grant an extension of Respondent's probation period up to one year without further hearing in
3 order to comply with this condition. During the one year extension, all original conditions of
4 probation will apply.

5 **12. Violation of Probation.** If Respondent violates the conditions of her
6 probation, the Board after giving Respondent notice and an opportunity to be heard, may set
7 aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's
8 license.

9 If during the period of probation, an accusation or petition to revoke probation has
10 been filed against Respondent's license or the Attorney General's Office has been requested to
11 prepare an accusation or petition to revoke probation against Respondent's license, the
12 probationary period shall automatically be extended and shall not expire until the accusation or
13 petition has been acted upon by the Board.

14 **13. License Surrender.** During Respondent's term of probation, if she ceases
15 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
16 probation, Respondent may surrender her license to the Board. The Board reserves the right to
17 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
18 take any other action deemed appropriate and reasonable under the circumstances, without
19 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent
20 will no longer be subject to the conditions of probation.

21 Surrender of Respondent's license shall be considered a disciplinary action and
22 shall become a part of Respondent's license history with the Board. A registered nurse whose
23 license has been surrendered may petition the Board for reinstatement no sooner than the
24 following minimum periods from the effective date of the disciplinary decision:

25 (1) Two years for reinstatement of a license that was surrendered for any
26 reason other than a mental or physical illness; or

27 (2) One year for a license surrendered for a mental or physical illness.

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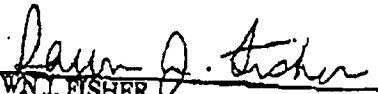
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P.D.

ACCEPTANCE


I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Donald B. Brown. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: OCT 16 2006


DAWN J. FISHER
Respondent

I have read and fully discussed with Respondent Dawn J. Fisher the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: OCT 16 2006

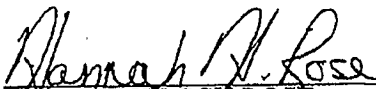

DONALD B. BROWN
Attorney for Respondent

1 ENDORSEMENT

2 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
3 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
4 Affairs.

5 DATED: 10-19-06

6 BILL LOCKYER, Attorney General
7 of the State of California

8
9
10 
11 HANNAH HIRSCH ROSE
12 Deputy Attorney General

13 Attorneys for Complainant

14 Matter ID Number: 03579110-SF2005400199
15 Fisher, Dawn.Stipulation.wpd
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Exhibit A
Accusation No. 2006-56

1 BILL LOCKYER, Attorney General
of the State of California
2 HANNAH HIRSCH ROSE, State Bar No. 56276
Deputy Attorney General
3 California Department of Justice
455 Golden Gate Avenue, Suite 11000
4 San Francisco, CA 94102-7004
Telephone: (415) 703-5515
5 Facsimile: (415) 703-5480

6 Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**
11

12 In the Matter of the Accusation Against:

Case No. 2006-56

13 DAWN J. FISHER
1703 R Street
14 Eureka, CA 95501

ACCUSATION

15 Registered Nurse License No. 417439

16 Respondent.

17
18 Complainant alleges:

19 PARTIES

20 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
21 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
22 Department of Consumer Affairs.

23 2. On or about August 31, 1987, the Board of Registered Nursing issued
24 Registered Nurse License Number 417439 to Dawn J. Fisher (Respondent). The Registered
25 Nurse License was in full force and effect at all times relevant to the charges brought herein and
26 will expire on November 30, 2006, unless renewed.

27 //

28 //

JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

6. Section 2811(b) of the Code provides, in pertinent part, that the Board may renew an expired license at any time within eight years after the expiration.

7. Section 2761 of the Code states, in relevant part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions...."

8. California Code of Regulations, title 16, section 1442, states:

"As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life."

9. California Code of Regulations, title 16, section 1443.5 states:

"A registered nurse shall be considered to be competent when he/she consistently

1 demonstrates the ability to transfer scientific knowledge from social, biological and physical
2 sciences in applying the nursing process, as follows:

3 "(1) Formulates a nursing diagnosis through observation of the client's physical
4 condition and behavior, and through interpretation of information obtained from the client and
5 others, including the health team.

6 "(2) Formulates a care plan, in collaboration with the client, which ensures that
7 direct and indirect nursing care services provide for the client's safety, comfort, hygiene, and
8 protection, and for disease prevention and restorative measures.

9 "(3) *Performs skills essential to the kind of nursing action to be taken, explains*
10 the health treatment to the client and family and teaches the client and family how to care for the
11 client's health needs.

12 "(4) Delegates tasks to subordinates based on the legal scopes of practice of the
13 subordinates and on the preparation and capability needed in the tasks to be delegated, and
14 effectively supervises nursing care being given by subordinates.

15 "(5) Evaluates the effectiveness of the care plan through observation of the
16 client's physical condition and behavior, signs and symptoms of illness, and reactions to
17 treatment and through communication with the client and health team members, and modifies the
18 plan as needed.

19 "(6) Acts as the client's advocate, as circumstances require, by initiating action to
20 improve health care or to change decisions or activities which are against the interests or wishes
21 of the client, and by giving the client the opportunity to make informed decisions about health
22 care before it is provided."

23 10. Section 125.3 of the Code provides, in pertinent part, that the Board may
24 request the administrative law judge to direct a licentiate found to have committed a violation or
25 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
26 and enforcement of the case.

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1 negligent in the care and treatment of patient D.B. when she failed to verbally challenge the
2 physician's order to discharge the patient when she knew or believed that the discharge would
3 pose a significant risk to the patient and also failed to initiate notification of appropriate
4 individuals utilizing the appropriate chain of command to address her concerns under the
5 circumstances set forth above in paragraph 11.

6
7 SECOND CAUSE FOR DISCIPLINE

8 (Unprofessional Conduct/Gross Negligence)

9 13. Respondent is subject to disciplinary action under section 2761(a)(1) in
10 conjunction with California Code of Regulations, title 16, section 1442 in that she was grossly
11 negligent in the care and treatment of patient D.B. when she provided continuing treatment to the
12 patient, including monitoring, oxygen, IV fluids and IV medication without a physician's order
13 or knowledge as set forth above in paragraph 11.

14
15 THIRD CAUSE FOR DISCIPLINE

16 (Unprofessional Conduct/Gross Negligence)

17 14. Respondent is subject to disciplinary action under section 2761(a)(1) in
18 conjunction with California Code of Regulations, title 16, section 1442 in that she was grossly
19 negligent in the care and treatment of patient D.B. when she did not notify the Emergency
20 Department physician of patient D.B.'s change in condition.

21
22 PRAYER

23 WHEREFORE, Complainant requests that a hearing be held on the matters herein
24 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

25 1. Revoking or suspending Registered Nurse License Number 417439, issued
26 to Dawn J. Fisher;

27 2. Ordering Dawn J. Fisher to pay the Board of Registered Nursing the
28 reasonable costs of the investigation and enforcement of this case, pursuant to Business and

1 Professions Code section 125.3;

2 3. Taking such other and further action as deemed necessary and proper.

3 DATED: 10/17/05

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RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant